

REMARKS

Claim amendments are supported as follows: (1) “unique biometric identification/input” is supported at page 6, line 4 of the application as filed; (2) “reading all or a portion of a footprint” to obtain the unique biometric identification/input is supported at page 6, line 4 and page 8 lines 2-3; (3) “custom data” is supported at page 6, line 13.

CLAIMS REJECTION – 35 USC § 103

Examiner rejected the claims as being unpatentable over Tanida in view of Shea. Examiner has stated that Tanida teaches the following: a biometric input device for biometric identification of a user (col. 4, lines 23); an electronics component that is electrically connected to the biometrics input device (fig.2); a communication device electrically connected to the electronics component (fig.2); and a plurality of user profiles (figs.7a-b). Examiner has stated that Tanida doesn’t teach target data, but that Shea does (col. 12, line 64).

Examiner has also stated that Tanida teaches a means for updating a plurality of user profiles with measurement data from the weight device (col. 3, lines 18-23) by providing the following: a platform for obtaining measurement information from a user and to obtain biometric input when a user is in position (col. 1, line 53); a biometric input device that is located on a weight device to obtain biometric input and measurement information (fig.1); such that when the user is on a platform to deliver biometric input and measurement information, the input and information are communicated to the electronics component to screen against a plurality of user profiles, which are secured by biometric input (col. 4, line 6); and means for accessing and updating user profiles and communicating data by LCD (col. 4, lines 23 and fig.1). Examiner stated that Shea discloses trend data and comparison means (col. 12, line 64). Examiner stated that Osten teaches biometric toe prints (col. 7, lines 34-41).

Tanida does not teach a unique biometric identifier. Bioimpedence values are not unique to just one individual, but rather are shared by many. Moreover, these values change over time because of physiological changes. Support for the ordinariness of bioimpedence is found in the Sung *et al.* reference showing that, using a Tanida bioimpedence device, the

measurement values obtained for a plurality of individuals had (a) variance for any given individual, and (b) overlap between individuals. (Arch Dis Child, (2001) 85:263-7). Support that bioimpedance is not unique to an individual can also be found in the Tanida reference itself, e.g., at col. 6, lines 53-64. Tanida states that the impedance of an individual can differ between day and night, resting state and active state, changes in body weight, eating, drinking and etc. These fluctuations will contribute to the variance and overlap discussed in the journal reference, and in turn showing that Tanida does not use a unique biometric identifier.

Because of the flaws in Tanida, such a device is not useful in a setting where a large number of users each desire/require privacy of their stored data. Settings such as a physician's office where the number of users will be high and, thus, the small range of bioimpedances will overlap giving users access to other's personal data. (One example is a pediatrician's office). To maintain privacy in this type of setting, Tanida would require something more than what is taught. As stated at col. 4, lines 13-23, the Tanida device is designed to be useful for a small number of users who are not so concerned with privacy as much as isolation of their data from other user's data (e.g., family of three: Dad, Mom and small child).

Tanida is not teaching a weight device with unique biometric identification for security of profile data as is claimed in the current invention. Tanida is teaching a scale that categorizes measurements for a small number of users who are not interested in the security of their information, but instead just want to keep cumulative measurements without remembering a data ID number. (See, Abstract). There is no reason to look at the Tanida patent when desiring to make the security weight scale of this invention because there is nothing secure about the Tanida data. (See Sung *et al.* discussing the small range of bioimpedance measurements, and individual-to-individual overlap thereof. See Tanida patent at col. 6, lines 53-64 discussing the variance in an individual's bioimpedance based on resting/active states, food and water consumption and etc. See also Tanida at col. 6, line 28 to col. 8, line 12 and figures 6 and 4 at S21-S25. Essentially, here Tanida provides the data of the closest determination data. If this is the user's data, then the user presses "yes –update profile." If it is not, then the user presses the 11A or 11B buttons to see additional profile data). This is not the privacy provided in the current invention because the bioimpedance input is not unique. Thus, in Tanida, a user must scroll

through closest profile data to find theirs. There is no reason to look at Tanida for a weight device with secured data.

The current invention's privacy is driven by the unique biometric input – namely a footprint or part thereof. Osten teaches a device with a combination of biometric measurements as a means to provide security in settings where an intoxicated, dismembered or deceased person's identifier is being hijacked. But, there is nothing in Osten teaching a weight device that segregates and protects users' information using a unique identifier. There is no reason to look at Osten for such a weight device. Shea teaches a network of exercise equipment linked by a communication device. User profiles are accessed using a keypad or card reader, and the profiles contain exercise routines and user data. In Shea, does not teach a secured user profile that is accessible using a unique biometric identifier. There is no reason to look to Shea for the currently claimed invention. It is respectfully asked that the Examiner reconsider and remove the current rejections of the claims.

INFORMATION DISCLOSURE STATEMENT

An Information Disclosure Statement is included with this response. (*See* Form SB08b). No fee is due pursuant to 37 CFR 1.97 (e)(2) stating that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

CONCLUSION

The claims of the current invention are believed to be in condition for allowance. Should any additional matters remain, the Examiner is invited to telephone the undersigned at his earliest convenience.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael A. Roes", written in a cursive style.

FOR Incline Technology, Inc.

Michael A. Roes